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Liability for Space Vehicle Accidents

We propose that the Legal Subcommittee should ask the Secretary-General to appoint a small panel of legal experts drawn from various geographical areas. The panel, assisted by scientific experts, would prepare a report containing its recommendations for a treaty on this subject. This report would be forwarded to the Outer Space Committee for discussion at a subsequent meeting. The Committee would examine and make necessary revisions in the draft instrument and circulate the text to governments for comment. We would then propose that the General Assembly be asked to call a plenipotentiary conference for the conclusion of an international convention on the basis of the draft instrument.

The Legal Subcommittee might ask the panel of experts to consider a number of fundamental questions in preparing the treaty. The Subcommittee might make recommendations on some of these questions.

(1) What should be the basis of liability? We think that a launching State should be responsible internationally for injury to or loss of life of any person (other than a national of the launching State) and for damage to property owned by any person (other than a national of the launching State) resulting from the operation of its space vehicles, regardless of negligence or fault. A launching State should also be responsible, on the same basis, for damage to State-owned property.

(2) To what areas should the treaty apply? We think that the treaty should deal with injury, loss or damage on land, on the sea and in air space. It seems premature at this stage to try to deal with collisions between spacecraft.

(3) Should liability in the case of a multi-national launching authority be shared? We think that the answer should be affirmative.

(4) Who should have the right to seek compensation? We think that the right to seek compensation for injury, loss or damage caused by a space vehicle incident should, on an international level, accrue exclusively to the State(s) which or whose nationals have suffered injury or loss of life or property damage. Special provision would have to be made for stateless persons.

(5) How should a claim be presented? We think that the claimant State should present a documented claim for compensation to the launching State through the diplomatic channel within a reasonable time after the injury, loss or damage.

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(6) Should the normal rule be followed concerning exhaustion of local remedies? We think that the presentation of a claim should not require the prior exhaustion of any domestic remedies which may be available in the launching State.

(7) What provision should be made for the impartial settlement of disputes under the treaty? We think that the International Court of Justice should have jurisdiction to adjudicate any dispute relating to the interpretation or application of the treaty in the absence of agreement between the States concerned upon an alternative means of peaceful settlement.

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